



Sen. Heather A. Steans

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1 AMENDMENT TO SENATE BILL 673

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 673 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by  
5 changing Section 356z.16 and adding Section 356z.19 as follows:

6 (215 ILCS 5/356z.16)

7 Sec. 356z.16. Applicability of mandated benefits to  
8 supplemental policies. Unless specified otherwise, the  
9 following Sections of the Illinois Insurance Code do not apply  
10 to short-term travel, disability income, long-term care,  
11 accident only, or limited or specified disease policies: 356b,  
12 356c, 356d, 356g, 356k, 356m, 356n, 356p, 356q, 356r, 356t,  
13 356u, 356w, 356x, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6,  
14 356z.8, 356z.12, 356z.19, 367.2-5, and 367e.

15 (Source: P.A. 96-180, eff. 1-1-10; 96-1000, eff. 7-2-10;  
16 96-1034, eff. 1-1-11.)

1 (215 ILCS 5/356z.19 new)

2 Sec. 356z.19. Tobacco use cessation programs.

3 (a) This Section may be referred to as the Tobacco  
4 Dependence Coverage Law.

5 (b) Tobacco use is the number one cause of preventable  
6 disease and death in Illinois, costing \$4.1 billion annually in  
7 direct health care costs and an additional \$4.35 billion in  
8 lost productivity. In Illinois, the smoking rates are highest  
9 among African Americans (25.8%). Smoking rates among lesbian,  
10 gay, and bisexual adults range from 25% to 44%. The U.S. Public  
11 Health Service Clinical Practice Guideline 2008 Update found  
12 that tobacco dependence treatments are both clinically  
13 effective and highly cost effective. A study in the Journal of  
14 Preventive Medicine concluded that comprehensive smoking  
15 cessation treatment is one of the 3 most important and cost  
16 effective preventive services that can be provided in medical  
17 practice. Greater efforts are needed to achieve more of this  
18 potential value by increasing current low levels of  
19 performance.

20 (c) In this Section, "tobacco use cessation program" means  
21 a program recommended by a physician that follows  
22 evidence-based treatment, such as is outlined in the United  
23 States Public Health Service guidelines for tobacco use  
24 cessation. "Tobacco use cessation program" includes education  
25 and medical treatment components designed to assist a person in

1 ceasing the use of tobacco products. "Tobacco use cessation  
2 program" includes education and counseling by physicians or  
3 associated medical personnel and all FDA approved medications  
4 for the treatment of tobacco dependence irrespective of whether  
5 they are available only over the counter, only by prescription,  
6 or both over the counter and by prescription.

7 (d) A group or individual policy of accident and health  
8 insurance or managed care plan amended, delivered, issued, or  
9 renewed after the effective date of this amendatory Act of the  
10 97th General Assembly to a resident of this State must provide  
11 coverage or reimbursement of up to \$500 annually for a tobacco  
12 use cessation program for a person enrolled in the plan who is  
13 18 years of age or older.

14 (e) Written notice of the availability of coverage under  
15 this Section shall be delivered to the insured upon enrollment  
16 and annually thereafter. An insurer may not deny to an insured  
17 eligibility or continued eligibility to enroll or to renew  
18 coverage under the terms of the plan solely for the purpose of  
19 avoiding the requirements of this Section. An insurer may not  
20 penalize or reduce or limit the reimbursement of an attending  
21 provider or provide incentives, monetary or otherwise, to an  
22 attending provider to induce the provider to provide care to an  
23 insured in a manner inconsistent with this Section.

24 Section 10. The Health Maintenance Organization Act is  
25 amended by changing Section 5-3 as follows:

1 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

2 Sec. 5-3. Insurance Code provisions.

3 (a) Health Maintenance Organizations shall be subject to  
4 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,  
5 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,  
6 154.6, 154.7, 154.8, 155.04, 355.2, 356g.5-1, 356m, 356v, 356w,  
7 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,  
8 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17,  
9 356z.18, 356z.19, 364.01, 367.2, 367.2-5, 367i, 368a, 368b,  
10 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2,  
11 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of  
12 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,  
13 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

14 (b) For purposes of the Illinois Insurance Code, except for  
15 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health  
16 Maintenance Organizations in the following categories are  
17 deemed to be "domestic companies":

18 (1) a corporation authorized under the Dental Service  
19 Plan Act or the Voluntary Health Services Plans Act;

20 (2) a corporation organized under the laws of this  
21 State; or

22 (3) a corporation organized under the laws of another  
23 state, 30% or more of the enrollees of which are residents  
24 of this State, except a corporation subject to  
25 substantially the same requirements in its state of

1 organization as is a "domestic company" under Article VIII  
2 1/2 of the Illinois Insurance Code.

3 (c) In considering the merger, consolidation, or other  
4 acquisition of control of a Health Maintenance Organization  
5 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

6 (1) the Director shall give primary consideration to  
7 the continuation of benefits to enrollees and the financial  
8 conditions of the acquired Health Maintenance Organization  
9 after the merger, consolidation, or other acquisition of  
10 control takes effect;

11 (2) (i) the criteria specified in subsection (1) (b) of  
12 Section 131.8 of the Illinois Insurance Code shall not  
13 apply and (ii) the Director, in making his determination  
14 with respect to the merger, consolidation, or other  
15 acquisition of control, need not take into account the  
16 effect on competition of the merger, consolidation, or  
17 other acquisition of control;

18 (3) the Director shall have the power to require the  
19 following information:

20 (A) certification by an independent actuary of the  
21 adequacy of the reserves of the Health Maintenance  
22 Organization sought to be acquired;

23 (B) pro forma financial statements reflecting the  
24 combined balance sheets of the acquiring company and  
25 the Health Maintenance Organization sought to be  
26 acquired as of the end of the preceding year and as of

1 a date 90 days prior to the acquisition, as well as pro  
2 forma financial statements reflecting projected  
3 combined operation for a period of 2 years;

4 (C) a pro forma business plan detailing an  
5 acquiring party's plans with respect to the operation  
6 of the Health Maintenance Organization sought to be  
7 acquired for a period of not less than 3 years; and

8 (D) such other information as the Director shall  
9 require.

10 (d) The provisions of Article VIII 1/2 of the Illinois  
11 Insurance Code and this Section 5-3 shall apply to the sale by  
12 any health maintenance organization of greater than 10% of its  
13 enrollee population (including without limitation the health  
14 maintenance organization's right, title, and interest in and to  
15 its health care certificates).

16 (e) In considering any management contract or service  
17 agreement subject to Section 141.1 of the Illinois Insurance  
18 Code, the Director (i) shall, in addition to the criteria  
19 specified in Section 141.2 of the Illinois Insurance Code, take  
20 into account the effect of the management contract or service  
21 agreement on the continuation of benefits to enrollees and the  
22 financial condition of the health maintenance organization to  
23 be managed or serviced, and (ii) need not take into account the  
24 effect of the management contract or service agreement on  
25 competition.

26 (f) Except for small employer groups as defined in the

1 Small Employer Rating, Renewability and Portability Health  
2 Insurance Act and except for medicare supplement policies as  
3 defined in Section 363 of the Illinois Insurance Code, a Health  
4 Maintenance Organization may by contract agree with a group or  
5 other enrollment unit to effect refunds or charge additional  
6 premiums under the following terms and conditions:

7 (i) the amount of, and other terms and conditions with  
8 respect to, the refund or additional premium are set forth  
9 in the group or enrollment unit contract agreed in advance  
10 of the period for which a refund is to be paid or  
11 additional premium is to be charged (which period shall not  
12 be less than one year); and

13 (ii) the amount of the refund or additional premium  
14 shall not exceed 20% of the Health Maintenance  
15 Organization's profitable or unprofitable experience with  
16 respect to the group or other enrollment unit for the  
17 period (and, for purposes of a refund or additional  
18 premium, the profitable or unprofitable experience shall  
19 be calculated taking into account a pro rata share of the  
20 Health Maintenance Organization's administrative and  
21 marketing expenses, but shall not include any refund to be  
22 made or additional premium to be paid pursuant to this  
23 subsection (f)). The Health Maintenance Organization and  
24 the group or enrollment unit may agree that the profitable  
25 or unprofitable experience may be calculated taking into  
26 account the refund period and the immediately preceding 2

1 plan years.

2 The Health Maintenance Organization shall include a  
3 statement in the evidence of coverage issued to each enrollee  
4 describing the possibility of a refund or additional premium,  
5 and upon request of any group or enrollment unit, provide to  
6 the group or enrollment unit a description of the method used  
7 to calculate (1) the Health Maintenance Organization's  
8 profitable experience with respect to the group or enrollment  
9 unit and the resulting refund to the group or enrollment unit  
10 or (2) the Health Maintenance Organization's unprofitable  
11 experience with respect to the group or enrollment unit and the  
12 resulting additional premium to be paid by the group or  
13 enrollment unit.

14 In no event shall the Illinois Health Maintenance  
15 Organization Guaranty Association be liable to pay any  
16 contractual obligation of an insolvent organization to pay any  
17 refund authorized under this Section.

18 (g) Rulemaking authority to implement Public Act 95-1045,  
19 if any, is conditioned on the rules being adopted in accordance  
20 with all provisions of the Illinois Administrative Procedure  
21 Act and all rules and procedures of the Joint Committee on  
22 Administrative Rules; any purported rule not so adopted, for  
23 whatever reason, is unauthorized.

24 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;  
25 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;  
26 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.

1 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; 96-833, eff.  
2 6-1-10; 96-1000, eff. 7-2-10.)

3 Section 15. The Limited Health Service Organization Act is  
4 amended by changing Section 4003 as follows:

5 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

6 Sec. 4003. Illinois Insurance Code provisions. Limited  
7 health service organizations shall be subject to the provisions  
8 of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c,  
9 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8,  
10 155.04, 155.37, 355.2, 356v, 356z.10, 356z.19, 368a, 401,  
11 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1 and  
12 Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and  
13 XXVI of the Illinois Insurance Code. For purposes of the  
14 Illinois Insurance Code, except for Sections 444 and 444.1 and  
15 Articles XIII and XIII 1/2, limited health service  
16 organizations in the following categories are deemed to be  
17 domestic companies:

18 (1) a corporation under the laws of this State; or

19 (2) a corporation organized under the laws of another  
20 state, 30% of more of the enrollees of which are residents  
21 of this State, except a corporation subject to  
22 substantially the same requirements in its state of  
23 organization as is a domestic company under Article VIII  
24 1/2 of the Illinois Insurance Code.

1 (Source: P.A. 95-520, eff. 8-28-07; 95-876, eff. 8-21-08.)

2 Section 20. The Voluntary Health Services Plans Act is  
3 amended by changing Section 10 as follows:

4 (215 ILCS 165/10) (from Ch. 32, par. 604)

5 Sec. 10. Application of Insurance Code provisions. Health  
6 services plan corporations and all persons interested therein  
7 or dealing therewith shall be subject to the provisions of  
8 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,  
9 149, 155.37, 354, 355.2, 356g, 356g.5, 356g.5-1, 356r, 356t,  
10 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5,  
11 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,  
12 356z.14, 356z.15, 356z.18, 356z.19, 364.01, 367.2, 368a, 401,  
13 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)  
14 and (15) of Section 367 of the Illinois Insurance Code.

15 Rulemaking authority to implement Public Act 95-1045, if  
16 any, is conditioned on the rules being adopted in accordance  
17 with all provisions of the Illinois Administrative Procedure  
18 Act and all rules and procedures of the Joint Committee on  
19 Administrative Rules; any purported rule not so adopted, for  
20 whatever reason, is unauthorized.

21 (Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;  
22 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.  
23 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,  
24 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;

1 96-328, eff. 8-11-09; 96-833, eff. 6-1-10; 96-1000, eff.  
2 7-2-10.)".